

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 70330
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: September 13, 2012
County: Wayne Count DHS (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 13, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and her spouse, [REDACTED], who appeared as a witness and authorized hearing representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED]ian, FIM and [REDACTED], ES.

ISSUE

Due to change in income did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On September 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On August 1, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On August 6, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the denial of the application. closure of the case. reduction of benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of

1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, in this matter, several changes in the Claimant's spouse's income caused the group's FAP benefits to fluctuate. Initially a change in income occurred in July 2012, when Claimant's spouse began receiving unearned income in the form of disability benefits from his employer. This changed the Claimant's income to \$372 weekly, which amount was confirmed by the Claimant's spouse, and used by the Department to calculate September 2012 benefits in the amount of \$316.

In August 2012, the Department calculated the Claimant's FAP benefits and used earnings from wages, earned income, and disability income, unearned income. The earned income was based on pay stub information provided by the Claimant, and a letter from Claimant's spouse's employer regarding the amount of disability benefits received. Exhibit 1. A review of the FAP budgets for August and September was made during the hearing. The Department did not include a shelter allowance for the Claimant in the budget it prepared for August benefits, and thus its benefit calculation was incorrect. Based on the failure to include an excess shelter deduction for August 2012, the Department must recalculate FAP benefits for that month. Exhibit 1, pp 7,8.

When calculating FAP benefits based on earned income, 20% of the gross income amount is deducted from the total earned income (which significantly reduces the amount income used to calculate benefits). In the August budget, the Department deducted an earned income deduction of \$573. No deduction is made from gross unearned income, thus all of the income is counted with no deduction, except for the standard deduction. The standard deduction is applied for both unearned and earned income and is the same amount regardless of the amount of income as it is based on group size. Both earned income and unearned income received a further reduction based upon the standard deduction of \$270, which is determined by RFT 255. Department of Human Services Bridges Eligibility Manual, (BEM) 554 (2011).

A review was also made of the FAP budget used to calculate September 2012 benefits. This budget was based solely on unearned income of \$372 per week and did include an excess shelter deduction of \$459 (the maximum amount that can be received for a shelter deduction). The Claimant believed the budget for September was not correct because the benefits for that month were less than August when the Claimant received more income. Upon further review it appears the Claimant is correct.

As explained at the hearing earned income and unearned income are treated differently when calculating FAP benefits, however, this difference does not account for the discrepancy. After further, and closer, review of the August FAP budget it appears the \$316 benefit amount may be incorrect. A closer look at the budget indicates that the Claimant's net income amount of \$933 would yield FAP benefits of \$672 for a group of 6 persons. RFT260 pp8. Based on the budget presented, the Department did not

appear to recoup benefits or present any explanation why the benefits amount of \$672 and the net benefit amount of \$316 discrepancy occurred. Exhibit 1 pp 4. Thus, the Department's September 2012 FAP budget is determined to be incorrect and must be recalculated also.

A full comparison of the August and September FAP benefits could not be made as the August 2012 budget was incorrect, as it did not include the excess shelter deduction; and the September budget is also incorrect.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

DECISION AND ORDER

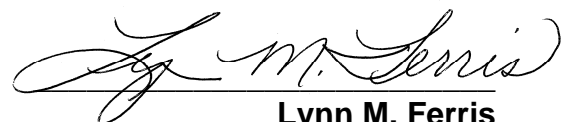
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, contained in this Decision and Order reverses the affirmance of the August 2012 budget, finds that the Department

did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate recalculation of the Claimant's August 2012 FAP budget, and shall include a shelter expense when calculating the FAP benefits.
2. The Department shall initiate recalculation of the Claimant's September 2012 FAP budget to determine the correct benefit amount, and to determine why the actual benefit about of \$672 was reduced to \$316 without explanation for the reduction.
3. The Department shall issue FAP supplements, if any are appropriate, to the Claimant for FAP benefits the Claimant was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 21, 2012

Date Mailed: September 21, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

